

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

QUENTIN C. LASTER,

Plaintiff,

Case No. 05-71140

v.

Hon. John Corbett O'Meara

DR. GEORGE PRAMSTALLER, *et al.*,

Defendants.

**ORDER DENYING SECOND APPLICATION TO PROCEED
ON APPEAL WITHOUT PREPAYMENT OF FEES AND COSTS**

Before the court is Plaintiff's second application to proceed on appeal without prepayment of fees and costs, filed August 3, 2006. It appears that Plaintiff did not receive the court's Order denying his first application as a result of a change in Plaintiff's address. As of August 3, 2006, the court received Plaintiff's updated address information. The court will deny Plaintiff's second application for the same reasons set forth in its Order denying Plaintiff's first application, issued July 11, 2006. The clerk of the court shall forward Plaintiff a copy of the July 11 Order to his new address.

After the court denied Plaintiff's first application to proceed *in forma pauperis*, the Court of Appeals for the Sixth Circuit remanded the case to this court "for the limited purpose of either assessing the \$455.00 appellate filing fee, or if applicable, determine that the 'three strikes' provision of 28 U.S.C. § 1915(g) applies." The court finds that the "three strikes" provision of 28 U.S.C. § 1915(g) does not apply, because based upon the information available to the court, Plaintiff has not "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that

it is frivolous, malicious, or fails to state a claim upon which relief may be granted.” Id.

According to the court docket, Plaintiff has previously filed a habeas petition and a prior suit under 42 U.S.C. § 1983, which was dismissed without prejudice for failure to exhaust administrative remedies.

IT IS HEREBY ORDERED that Plaintiff’s August 3, 2006 second application to proceed on appeal without prepayment of fees and costs is DENIED.

s/John Corbett O’Meara
UNITED STATES DISTRICT JUDGE

Dated: August 29, 2006

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, August 29, 2006, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager, (734) 741-2488